

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRIAN CRAWFORD,)	
)	
Plaintiff,)	4:12CV3101
)	
v.)	
)	
SIDNEY REGIONAL MEDICAL)	MEMORANDUM REGARDING
CENTER,)	PLAINTIFF'S NOTICE OF DISMISSAL
)	
Defendant.)	
_____)	

I write this memorandum to clarify the effect of the notice of voluntary dismissal that has been filed by the plaintiff.

On May 18, 2012, the plaintiff, Brian Crawford, filed a complaint against the defendant, Sidney Regional Medical Center d/b/a/ Memorial Health Center (SRMC). (ECF No. 1.) SRMC filed a motion to dismiss the complaint on July 12, 2012, (ECF No. 6), and after Crawford filed an amended complaint on August 2, 2012, (ECF No. 11), I denied SRMC's motion to dismiss on the ground that it was moot, (ECF No. 12). SRMC did not file an answer to the original complaint, and it has not yet filed an answer to the amended complaint. Nor has it filed a motion for summary judgment in this case.

Crawford has now filed a "Notice of Voluntary Dismissal Without Prejudice" pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). (ECF No. 15.) Rule 41(a)(1)(A)(i) states that "the plaintiff may dismiss an action without a court order by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." "These two instances," i.e., the serving of an answer or a motion for summary judgment, "have been construed strictly and exclusively." Safeguard Business Systems, Inc. v. Hoeffel, 907 F.2d 861, 863 (8th Cir. 1990). In other words, I "consider only whether an answer or a motion for summary judgment was filed before the notice of voluntary dismissal." Id. Although SRMC did file a motion to dismiss the original complaint, it did not file an answer or a motion for summary judgment prior to the filing of

Crawford's notice of dismissal. Under these circumstances, Crawford's voluntary dismissal must be given effect, and this court no longer has jurisdiction over this case.

Dated October 2, 2012.

BY THE COURT

A handwritten signature in cursive script, reading "Warren K. Urbom", is written over a horizontal line.

Warren K. Urbom
United States Senior District Judge